



Waitakere City Council
Te Taiao o Waitakere

NOTICE OF MEETING

HEARINGS COMMITTEE

I hereby give notice that a Meeting of the Hearings Committee will be held on:-

DATE: Friday, 21 September 2007 **TIME:** 1.00 pm

VENUE: Waitakere Central, 6 Henderson Valley Road, Henderson, Waitakere

to consider an application for resource consent: 60 Barrys Road, Glendene and to take any necessary action connected therewith.

Sharon Simiona .

10 September 2007

Sharon Simiona
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8820

MEMBERSHIP:

Councillors DQ Battersby, JP (Chairman)
 WW Flaunty, QSM, JP (Deputy Chairman)
 PA Hulse
 JP Lawley
 VS Neeson, JP
 CA Stone

Alternate Council Representative
 LA Cooper

Ward Representative
 Mrs EAG Grimmer, MNZM (Henderson Community Board)

Alternate Ward Representative
 Mr WS Bainbridge (Henderson Community Board)

(Quorum 4 members)

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(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR A MEETING OF THE HEARINGS COMMITTEE TO BE HELD AT
WAITAKERE CENTRAL, 6 HENDERSON VALLEY ROAD, HENDERSON,
WAITAKERE, ON FRIDAY, 21 SEPTEMBER 2007 COMMENCING AT 1.00 PM**

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1 APOLOGIES



2 URGENT BUSINESS

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the Committee by resolution so decides; and
- (ii) the Chairman has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion and decision, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting.

The Committee may make a decision on a matter determined to be urgent.

NOTE: Urgent Business need not be dealt with now and may be delayed until later in the meeting.



3 CONFLICTS OF INTEREST

The Council has acknowledged in its Code of Conduct that Elected Members need to be vigilant to stand aside from decision making when a conflict arises between their role as a member of the Council and any private or other external interest they might have. This note is provided as a reminder to members to check that no such conflicts arise in relation to any items on this agenda.



4 LIMITED NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY LASQUE CONSTRUCTION TO ESTABLISH A CHILDCARE CENTRE FOR UP TO 50 CHILDREN WITHIN THE GLENDENE PRIMARY SCHOOL GROUNDS AT 60 BARRYS ROAD, GLENDENE.

GLOSSARY

Auckland Regional Policy Statement	(ARPS)
Metropolitan Urban Limits	(MUL)
Long Term Council Community Plan 2003	(LTCCP)
The Manual of Traffic Signs and Markings	(MOTSAM)

RMA 20070227

HENDERSON WARD

N.B. This report sets out the advice of Consent Services to the Hearings Committee on the environmental issues raised by the application for resource consent. It is not the decision of the Council. The decision will be made after consideration of the application by the Hearings Committee.

APPLICATION DETAILS

Planner:	Mandy Sherring
Site Address:	60 Barrys Road
Applicant:	Las Construction Ltd
Date Received:	9 February 2007
Resource Consent No:	RMA 20070227
Building Consent No:	Not yet applied for
Ward:	Henderson
Legal Description:	Pt Lot 3 DP 1931
Address for Service:	MPC Planning PO Box 8960 Symonds Street Auckland
Site Area:	23,970m ²
District Plan:	Human Environment: Living
Natural Area(s):	General
Landscape Elements:	None
Hazards:	Contaminated Site
Roading Hierarchy:	Local
Further Information Required:	Yes
Date Requested:	15/3/2007, 11/4/2007, 11/6/2007
Date Received:	16/3/2007, 27/3/2007, 16/5/2007, 29/6/2007
Site Visit:	30/6/2007
Any Affected Persons:	Yes
Approval Given:	No

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks consent to establish a childcare centre for up to 50 children in a new purpose built facility to be located within the grounds of Glendene Primary School. The childcare centre does not fit within the designated purpose of the site therefore consent is required for a non residential activity in the Living Environment that would require site works of 200m³ over an area of 7500m². Consent is also required for Traffic Generation and Carparking associated with a non-residential activity on a site potentially subject to contamination.

1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, *“when considering an application for resource consent, a consent authority shall have regard to the environmental effects of the proposed activity, together with any relevant objectives, policies and rules of the District Plan.”*

The environmental effects of this proposal are primarily related to amenity values and the cumulative effects of allowing the proposed activity to be located adjacent to residential sites. Such consideration included the associated vehicle movements to and from the site, parking, noise, privacy, and on-site amenity.

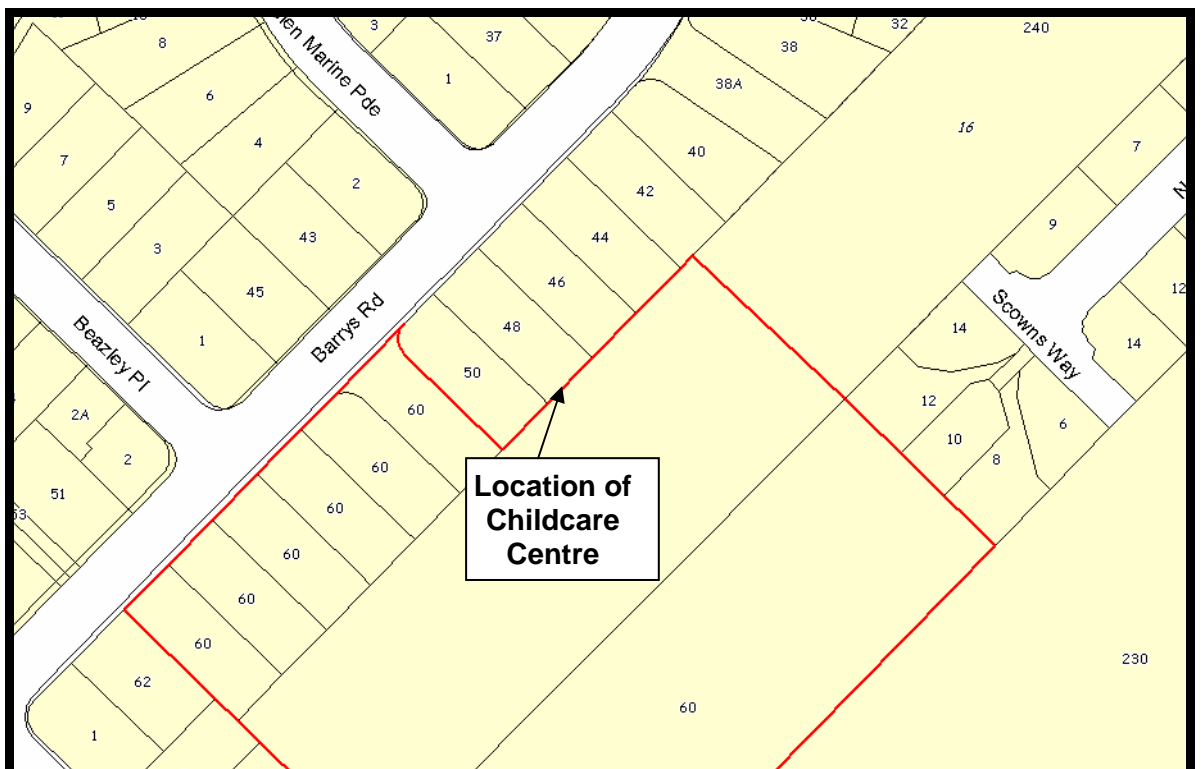
Other important aspects of the proposal for consideration related to the scale, character and intensity of the proposed development in relation to the surrounding environment and the District Plan policies and objectives.

1.3 Planner’s Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence submitted at the Hearing, **consent be granted** to the application for the establishment of a childcare centre at 60 Barrys Road, Glendene.

It is considered that the environmental effects that may be generated by the activity would be minor or could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of the District Plan will be satisfied.

2.0 LOCATION PLAN



Human Environment:
Natural Area:
Legal Description:

Living
General
Lot 1 DP 39100
Lot 162 DP 52097
Lot 25 DP 52097
Lot 27 DP 52097

Pt Lot 3 DP 1931
Lot 24 DP 52097
Lot 26 DP 52097
Lot 28 DP 52097

Total Area:

23,970m²

3.0 PROPOSAL

The applicant seeks consent to establish a childcare centre on the Glendene Primary School site at 60 Barrys Road, Glendene. It is proposed to construct 3 module buildings to cater for 50 children. This would include 8 children under the age of 2 years and the remainder (up to 42 children) would be under 5 years old. Hours of operation would be 7.30 am to 5.00 pm Monday to Friday and 8 staff would be employed on site at any one time. It is anticipated that the vehicles accessing the proposed childcare centre will predominantly be visiting the site between the hours of 7.30 am-9 am and 4.30 pm-5.30 pm. There is an existing wooden fence approximately 1.8m high along the boundary of 42, 44, 46, 48 & 50 Barrys Road. A small amount of landscaping is proposed along side the proposed carparking area.

Consent is required for a non-residential activity and associated traffic generation and carparking infringements. Earthworks proposed require consent for exceeding 50m³ over an area greater than 100m² and the site is known to Council to be potentially contaminated due to past use of the site for horticultural purposes.

The proposed works comprise the following:

- The construction of three module buildings with a combined gross floor area of 351m² to serve as the childcare centre and an associated outdoor play area including decking and access ramps measuring 160m².
- Earthworks of approximately 200m³ over an area of 7500m² will be required to create the proposed building platform and carparking areas.

4.0 REASONS FOR THE APPLICATION

Consent is required under the following provisions of the District Plan for the following reasons:

Living Environment

Rule 10.4: NON-RESIDENTIAL ACTIVITY

Non-Complying Activity: Consent is required for non-residential activities not meeting the performance standards for home occupations or existing non-residential activities on a site. The proposal is not a home occupation and is yet to be established on site.

Rule 11.3: TRAFFIC GENERATION

Discretionary Activity: Consent is required if a non-residential activity generates more than 50 vehicle movements per day or more than 1% of the roads daily traffic volume. The proposed childcare care centre would generate up to 160 daily movements.

Rule 12.3: CARPARKING AND DRIVEWAYS

Limited Discretionary Activity: Consent is required for all non-residential activities except home occupations where more than 3 car parking spaces would be required.

General Natural Area

Rule 3.3: EARTHWORKS

Limited Discretionary Activity: Consent is required where plan area of earthworks outside the building platform is greater than 100m². A total of 200m³ over an area of 7500m² is required to create the proposed building platform and carparking area and to widen the existing driveway as well as remove the existing earth mound located to the west of the proposed buildings.

City Wide Rules

Rule 2.2: CONTAMINATED SITES

Discretionary Activity: Consent is required as the site is known to Council to be potentially subject to contamination due to past horticultural use.

Overall the application is considered to be a **Non-Complying Activity**. The proposal complies with all other development control rules under the District Plan.

4.1 A building consent would also be required for this proposal but has not yet been applied for.

5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The subject site is located at 60 Barry's Road, Glendene and is designated under the Ministry of Education for Glendene Primary School, with an underlying residential zoning of Living Human Environment. The designation is comprised of a number of lots with a total combined site area of 23,930m². The school has two entrances on Barry's Road. The main vehicle entrance is to the main car park and administration block close to the western corner of the site. The second entrance is access to a parking area and child drop off point at the northern most road frontage. The majority of the school buildings are located on the southern and western portions of the site. The topography is relatively flat however slopes gently downwards near the north eastern boundary.

The proposed childcare centre is to be located on the existing playing field adjacent to the northern western boundary and will cover an area of approximately 1200m². The proposed development will be accessed by extending the existing secondary access from Barrys Road.

The subject site is largely surrounded by residential sites with the exception of Deleat's Winery which adjoins the south eastern boundary of the entire school site. The neighbourhood around Barrys Road is typical of a residential suburb of Glendene. The area is characterised by older, single level housing stock with most sites having one or two dwellings on them. Neighbourhood character is starting to change with the advent of infill development and the appearance of more modern dwellings on smaller sites.



6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

A131-A137 Notice of this application was served on all identified affected persons on Tuesday, 17 July 2007. The period for submissions closed on Monday, 13 August 2007 and two submissions were received. One submission supported the application and one submission opposed the application. Please refer to pages A132 to A137 for copies of the submissions that were received. A map showing the location of the submitters is attached at page A131.

6.1 Submissions

PERSON (owner/occupier)	ADDRESS	SUPPORT OPPOSE	REASONS
1. Robin Dunseath, Principal Glendene Primary School, on behalf of Glendene School Board of Trustees	60 Barrys Road Glendene	Support	<ol style="list-style-type: none"> 1. Glendene School Board of Trustees supports the development of an early learning centre (childcare) on the school grounds. It is considered that there is a need within the community for a childcare centre that is not a private centre but attached to the school. The child care centre will retain the character of the school and the neighbourhood. 2. Currently we (Glendene Primary School) have a childcare centre trying to meet community needs which is squashed into a classroom with no safe outdoor space or facilities. 3. There will be a fence, planting and a 3.0 metre strip to ensure peace and privacy for neighbours. 4. Extra car parking will assist in keeping cars from parking on the road at busy times.
2. Peg Lee Mane	48 Barrys Road Glendene	Oppose	<ol style="list-style-type: none"> 1. Disturbance of my dog, I've already had problems with kids tormenting my dog. My dog will bark more which will make my neighbours angry. 2. More crime, graffiti and people hanging around. 3. Kids throwing rubbish over the fence into my property. 4. Childcare will generate more traffic. 5. There is an existing childcare centre at 3 Beazley Place and a playcentre at 9 Patts Avenue, Glendene

7.0 STATUTORY REQUIREMENTS

7.1 Non-Complying Activities

A158-A171 The relevant policies and criteria which apply under the District Plan and the Resource Management Act 1991 are set out in more detail at pages A158 to A171. This should be referred to as the legal framework within which the application should be addressed.

As noted, the proposal requires consideration as a non-complying activity under the provisions of the Resource Management Act 1991. Section 104D of the Resource Management Act 1991 sets a threshold test which all resource consent applications for non-complying activities must first pass before a consent authority has jurisdiction to grant consent (having regard to the matters specified in Section 104). In short, the proposal must be able to establish and operate without generating more than minor adverse effects on the environment, or must not be contrary to the relevant objectives and policies of the Operative District Plan. Council may disregard an adverse effect of an activity on the environment if the Operative Plan permits an activity with that effect (Section 104(2) Resource Management Act 1991).

The matters to be considered when assessing an application for resource consent are set out in Section 104 of the Resource Management Act 1991. Amongst other things, these matters require consideration of any actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the application is consistent with relevant objectives, policies and rules of the District Plan. All considerations are subject to the provisions of Part II of the Resource Management Act 1991, which sets out the purpose and principles that guide this legislation.

However it should be noted that for council to grant consent to a non-complying activity application there should generally be some exceptional or unusual element to the proposal. If such unusual circumstances do not exist, then the proposal would effectively compromise the integrity of the District Plan and public confidence in the consistent administration of the plan may be undermined. It is considered that the proposal would be unique because although the childcare centre is considered to be a non-residential activity it is proposed to be located on a site designated for child educational purposes. The childcare centre is considered to be of a similar character to primary school activities and would be in keeping with the current use of the site.

Council also has discretion to consider any precedent issues that may arise for a non-complying activity. According to the Court of Appeal decision in *Dye v Rodney District Council*, an adverse precedent effect can arise where the grant of a non-complying consent would influence the approach taken by Council to similar consent applications. Such a precedent effect does not arise because childcare centres are not uncommon activities within the Living Environment (a residential zoning) and non-compliance in this case arises because the proposal activity would be a non-residential activity. It is considered that the effects generated by the proposed childcare centre would be little different from those school activities already established on the site.

The District Plan has been prepared with an “effects based” emphasis, in keeping with the Resource Management Act 1991. As such, consideration of the application in relation to each of the assessment criteria relating to the various infringements would ensure that all the relevant matters contained in Section 104 of the Resource Management Act 1991 would have been addressed. In addition, a brief summary is presented below of the main effects on the environment generated by the application.

7.2 Limited Notification - Section 94(1)

A175-A184 Section 94(1) provides for “limited notification” if the adverse effects of a proposal would be no more than minor but not all adversely affected persons have given their written approval, whereby all affected persons will be notified (but not the public at large) and have the opportunity to make a submission and be heard. This application was the subject of limited notification under section 94(1). A Section 93, 94 and 94A - 94D Determination Assessment was carried out. This report is attached at pages A175 to A184 of this report and identified that eighteen persons would be adversely affected by the proposal. However, not all persons identified as being affected gave their written approval. As required by section 94(1) notice of the application was therefore served on all persons who were identified as being adversely affected.

8.0 EVALUATION IN ACCORDANCE WITH SECTION 104 OF THE RESOURCE MANAGEMENT ACT 1991

In order to make a decision in terms of Section 104B of the Act it is necessary to undertake an analysis and assessment to determine whether the purpose and principles of the Act are being met (Part II) having regard to the matters set out in Sections 104, 104A - 104D as relevant, the Fourth Schedule and any other statutory considerations.

Section 104(1) of the Act requires that Council have regard to any actual or potential effects on the environment, any relevant objectives, policies, rules or other provisions of a plan or proposed plan and any relevant regional policy statement and regional plan or proposed plan, and any other matters the consent authority considers relevant and reasonably necessary to determine the application.

When considering an application Council must not have regard to any effect on a person who has given their written approval to the application (section 104 (3)(b)) and may disregard an adverse effect of an activity on the environment if the Operative Plan permits and activity with that effect (section 104(2)).

8.1 Assessment of Environmental Effects (104(1)(a)): Actual and Potential Effects on the Environment.

As a Non-Complying Activity a variety of issues are relevant when determining the nature and scale of adverse effects on the environment including effects on visual amenity, aural amenity, loss of native ecosystems, land stability, infrastructural capacity and construction effects.

In addition the Plan has been prepared with a clear "effects-based" emphasis. Consideration of the proposed development in relation to each of the Plan's assessment criteria would ensure that all the relevant matters contained in Section 104 of the Act have been addressed. The relevant assessment criteria from the District Plan, together with comments as to whether each criterion can be satisfied are summarised as follows:

8.1.1 Water Quality and Quantity

There would be de minimis adverse effects in relation to water quality/quantity arising from the proposed activity as it would be located within the urban area of the City and would not be near a water body or stream.

In addition conditions would be imposed to ensure that all soil surfaces temporarily exposed during siteworks are protected by means of silt and erosion control measures. Installation of such measures would ensure that any effects are contained within the site and would be no more than minor. Council's Drainage Engineer, Brett Disley has assessed the application and provided conditions which will be included on the consent as advice notes to be complied with under the building consent.

8.1.2 Native Vegetation, Vegetation and Fauna Habitat

There would be de minimis adverse effects in relation to vegetation and fauna habitat as a result of the proposed activity as the site is within the urban area is already modified and it is not proposed to remove any protected vegetation or work within the dripline of any protected vegetation. It is proposed to remove 3 trees less between 4-5m in high. These are not protected under the Waitakere City Council District Plan. The applicant has proposed landscape treatment to mitigate the visual effects of the proposal and this would be included as conditions of consent (if consent is granted).

8.1.3 Land / Soil

There would be de minimis adverse effects on soil/existing landform as a result of the proposed activity as the site is within the urban area, is already modified and the proposed earthworks are in keeping with the scale of development being proposed. The main area of earthworks would be for the formation of the carpark at the front of the site and would entail mainly surface scraping. Conditions would be imposed such as installation of silt and erosion control measures, wheel wash facilities and clean up of the street to ensure protection of adjoining properties and protection of the stormwater system from silt laden run-off. Such conditions would ensure that potential effects from the development would be de minimis.

A contamination report prepared by Engineering Design Consultants Limited and dated Friday, 10 August 2007 was provided as part of this consent. This report concluded that:

- The laboratory analysis confirmed that no heavy metals exceed the guideline levels and none of the Semi-volatile Organic compounds exceed the laboratory screening levels;
- The safety of workers, nearby residents and end-users should not be at risk from exposure resulting from earthworks, at the proposed site of the new childcare facility.

A condition of consent is recommended to ensure that any soil is either retained on site or sent to an appropriately licensed land fill.

8.1.4 Air

As the site is within the urban area and the proposed activity does not include air emissions of any kind, there would be de minimis adverse effects on air quality.

8.1.5 Ecosystem Stability

As the site is within the urban area and the existing environment is already modified there would be de minimis adverse effects on the stability of ecosystems as a result of the proposal.

8.1.6 Outstanding Natural Features; Landforms, Geological Sites

The subject site is not identified in the District Plan as being within an area identified as containing "outstanding natural features" within the City (refer Maps on pages 3.5D & E). The proposed activity would not therefore adversely affect any identified outstanding natural features.

8.1.7 Natural Character of Coast and Margins of Lakes, Rivers and Wetlands

There would be de minimis adverse effects in relation to the natural character of the coast and margins of lakes, rivers and wetlands arising from the proposed activity as it would be located within the urban area of the City and would not be near the coast, water body or wetland.

8.1.8 Outstanding Landscapes

The subject site is not identified in the District Plan as being within an area of "outstanding landscape" within the City (refer Map on page 3.6B). The site is within the urban area of the city and the environment is already extensively modified. Therefore the proposed activity would not adversely affect any identified outstanding landscapes.

8.1.9 Amenity Values - Health and Safety, Landscapes, Local Areas and Neighbourhood Character

- *Building bulk, overshadowing, physical dominance, privacy, noise*

The proposed child care centre is to be located in the northern corner of the playing field adjacent to the north-eastern boundary. The building would be constructed in 3 attached modules that will form an L shape and open out on to decking and a grassed outdoor play area. The rear elevation of Module B1 would face the northern boundary and have a separation distance of 4.5m. The carpark is located to the west of the childcare centre running parallel with the northern boundary and contains a 3.0 metre wide landscaping strip and 2.0 metre pedestrian path adjacent to the boundary adjoining residential sites.

Council's Field Services Adviser (Health), Andrew Chalton, has expressed no concerns with the proposed activity and is satisfied with the proposed design and acoustic fencing proposed to mitigate noise effects beyond the site. Any activity on the site would in any case be expected to comply with the noise controls detailed in the District Plan. No outdoor play areas will be located directly adjoining a boundary with a residential property and children attending the childcare centre would be housed within the proposed buildings and fenced outdoor play area while in the care of the centre.

The building itself would be single storey, would not be seen from the road and would comply with all bulk and location requirements.

- *Visual amenity, streetscape, sense of place, neighbourhood character, on site amenity, open space*

The proposed childcare centre building will be located a minimum of 70.0 metres from the road frontage and would not be visible from the road. The neighbouring properties will be separated from the proposed activity by existing and proposed fencing and vegetation.

Glendene Primary School is an established part of the community and neighbourhood character. The proposed use of the site as a childcare centre will be similar in character, intensity and scale to the current or potential use of the site. Mr Chalton has also commented that the noise from the childcare centre would be similar in nature and of a similar noise level (or less) to that of primary aged children playing in the area.

Despite the loss in area of playing field there is still a significant outdoor play area remaining to the south west of the childcare centre and on the existing hard surface court area in the centre of the school grounds, for use by the primary school.

- *Traffic generation, on-street parking, driver safety, pedestrian safety, roading capacity & roading network, traffic noise, vehicle movements, access and driveway manoeuvring, driveway width and gradient.*

The application is supported by a Traffic Impact Assessment report prepared by G.E. Brown, Consultant Traffic Engineer of G&H Transportation Consultants Limited, dated 29 November 2006. This report has been peer reviewed by Council's Transport Engineer, John Carroll. Mr Carroll agrees with the assessment and conclusions of the G&H Transport Consultants report that states:

"The overall traffic impacts of the proposal will be minor. The additional traffic flows that will occur as a result of the proposed childcare centre will be easily accommodated by the adjacent roading network. Sufficient parking will be provided on the site to be able to accommodate all of the parking needs of the proposal. The existing driveway has sufficient capacity and will allow efficient movement of traffic to and from the site.... The impact on the properties of the adjoining properties to the immediate west of the site (48-50 Barry's Road) will not be significant."

A number of conditions have been recommended relating to car park standards, signage, and design of vehicle crossings and these would be incorporated into any conditions of consent. It is anticipated that main use for drop off and pick up of children would occur at times of the day that would be equivalent to normal residential use. Thus surrounding residents are not likely to experience any greater degree of inconvenience than is currently experienced within this part of the road network at the start and end of each working and/or school day.

Overall it is considered that the proposal would generate no more than minor adverse effects on amenity values in terms of health and safety, local area and neighbourhood character and any effects would be avoided, mitigated or remedied by means of consent conditions.

8.1.10 Heritage

There would be de minimis adverse effects in respect of heritage items as the proposed activity would not be located near, or impact on any identified heritage item.

8.1.11 Summary

Non residential uses have the potential to impact adversely on neighbouring properties because they may generate noise or traffic effects in particular that are not typical of normal residential use. In this case the loss of residential use can be balanced against the following:

- The proposed use of acoustic fencing would ensure that noise would be limited to the levels required by the District Plan;
- Although there would be an increase in traffic movement to the site it is anticipated that main use for drop off and pick up of children would occur at times of the day that would be equivalent to normal residential use. Thus surrounding residents are not likely to experience any greater degree of inconvenience than is currently experienced within this part of the road network at the start and end of each working and/or school day;
- The design would utilise the existing road crossing and driveway so the point of entry to the site is as existing;
- No adverse effects would be generated at night or weekends because the proposed hours of operation are from 7.30 am to 5.30 pm weekdays.

It is considered that the actual and potential adverse effects of the proposed activity are *no more than minor* and can be adequately mitigated through appropriate conditions of consent because:

- Effects from earthworks would be of short duration and controlled by means of consent conditions;
- Effects from traffic would not compromise the safe operation of the road network;
- Soil testing concludes that contamination is within health safety guidelines;
- Design of carparking would allow for safe on-site manoeuvring and safe egress/ingress from the site;
- Noise would be controlled by means of acoustic fencing and would be required to meet District Plan standards;
- There is a 3.0 metre landscape strip separating the car park and pedestrians from the boundary with residential properties;
- Outdoor play areas are located away from the boundaries with residential properties.

8.2 ANY RELEVANT PROVISIONS OF THE DISTRICT PLAN 104(1)(b)(iv):

8.2.1 District Plan Policies and Objectives

It is considered that the proposed development would be consistent with the objectives and policies of the District Plan. Although the proposed activity would be a non-residential activity it presents relatively unusual circumstances because, although childcare centres are not unusual activities within residential areas of the City, it is rare to find a suitable site in such close proximity to a primary school. As the childcare centre is located within the school grounds it would allow a relatively seamless transition for users of the childcare facility from pre-school into primary education. There are no 'bulk and location' infringements and it is considered that residential/home occupation or school activities that could be established as of right on the site would result in effects that would be little different from those generated by a childcare centre.

The relevant objectives and policies in relation to this proposal are:

Objective 1; Policies 1.2, 1.5, 1.6 and 1.10

That seek to protect water quality and quantity by reducing vehicle use (and thus discharge from roads); by avoiding modification of landform; and by using appropriate design to manage stormwater disposal. Proposed stormwater design has been accepted by EcoWater Solutions and the locality of the proposal would encourage single drop-off/pick-up journeys.

Objective 10; Policies 10.2, 10.4, 10.6, 10.11 and 10.14

That seek to maintain and enhance the natural characteristics that contribute to human well being by managing activities so as to avoid nuisance effects (such as noise) to occupants of surrounding properties; locating buildings in a manner that ensures appropriate access to sunlight and daylight, outdoor space and privacy within sites and between sites; screening and designing car parking to ensure privacy and on site amenity for adjoining sites; and managing traffic effects in a manner that does not compromise the safety of all road users or surrounding residents and does not compromise the safe operation of the road network.

Objective 11; Policies 11.3 and 11.10

That seek to achieve a quality of activity that would make a positive contribution to local amenity value and neighbourhood character by locating buildings and associated car parking so that neighbourhood character, visual amenity and streetscape are maintained and privacy of adjoining property owners is assured.

8.2.2 Rules and Assessment Criteria

The District Plan Assessment Criteria have been developed to address the issues covered in the objectives and policies and are a useful guide in assessing the effect of an activity. The proposed activity is assessed in relation to each of the relevant criteria as follows:

- Living Environment – Non-Residential Activities

The proposed childcare centre would not:

- impact adversely on infrastructure, provided there is compliance with the conditions of consent;
- compromise either traffic safety or the safe operation of the road network;

- compromise pedestrian safety, residential safety or the residential coherence of the neighbourhood; and would be compatible with existing amenity values and neighbourhood character. The proposal is therefore deemed to be in accordance with (Non Residential Activity) Assessment Criteria 10(a) - 10(c) and (Traffic) Assessment Criterion 11 (a).

The proposed car parking area meets the required performance standards for car parking, would provide sufficient spaces to meet anticipated demand, would be provided with border planting and acoustic fencing so as to ensure the proposed activity would be screened and would not create adverse visual or aural effects on adjoining sites. The parking would therefore be in accordance with (Parking) Assessment Criteria 12(a) - 12 (c).

- General Natural Area – Earthworks

Assessed in terms of scale, method, design landscape treatment and location and in accordance with Assessment Criteria 3(a) to 3(q).

The proposal would require earthworks of 200m³ over an area of 7500m², the majority of this would be a scraping for the carpark and driveway area and for the building platform. This would be consistent with the scale of activity proposed. The car park would not be out of character in this highly modified residential environment and there would be provision of screen planting on the boundary adjoining residential sites. Silt and erosion control measures would be required for the duration of earthworks, as would measures to protect the road network and footpaths from damage. Other conditions would include controls on hours of operation and prevention of dust nuisance. The proposal is therefore considered to be in accordance with the relevant assessment criteria.

- Contaminated Sites

Assessed in accordance with Assessment Criteria 2(a) - 2(c) and any other relevant matters under section 104 of the Act.

Soil samples were taken from the site of the proposed childcare centre. Sampling was performed in accordance with Ministry for the Environment and Auckland Regional Council guidelines. It was concluded that no heavy metals exceed the guidelines levels and none of the Semi-volatile Organic Compounds exceed the laboratory screening levels. Therefore the safety of workers, nearby residents and end-users should not be at risk from earthworks at the proposed site of the childcare centre.

8.3 AUCKLAND REGIONAL POLICY STATEMENT, PLAN OR PROPOSED REGIONAL PLAN (104(1)(b)(iii) and (iv)

The Auckland Regional Policy Statement (ARPS) sets out the broad resource management issues, objectives and policies for the Auckland Region to achieve the integrated management of its natural and physical resources. The Policy Statement functions as an umbrella policy document for environmental planning and policy development within the region under which the Waitakere District Plan has been prepared.

Policies within the Regional Policy Statement reflect the need to avoid where practical, or remedy or mitigate adverse effects from development on the natural character of areas [contributing to run-off into coastal waters] and to avoid, remedy or mitigate adverse effects from sediment discharge to waterways. To be consistent with the ARPS it would be necessary to ensure that elevated levels of sediment do not enter the watercourse as a result of any works. It is noted that measures to control sediment during construction are contained in the Erosion and Sediment Control Measures Appendix in the Waitakere City District Plan. With conditions in place requiring the implementation of the recommendations of this Sediment and Erosion Control Measures Appendix, it is considered that the proposal would mitigate adverse effects from development on the natural character and would avoid adverse effects from the sediment discharge to waterways.

ARPS is also concerned that expansion of activities beyond the Metropolitan Urban Limits (MUL) does not threaten environmental qualities and thresholds (Urban Growth Management) and is not exploiting cheaper land costs. In this case the application is clearly an intensification of land use for a childcare facility in response to community demand and close to other educational establishments that would be consistent with objectives of promoting less use of private vehicles by reducing numbers of vehicle trips.

Therefore the proposal is considered to be consistent with the policies of the Auckland Regional Policy Statement.

8.4 ANY OTHER MATTERS THE CONSENT AUTHORITY CONSIDERS RELEVANT AND REASONABLY NECESSARY TO DETERMINE THE APPLICATION (104(1)(c)).

8.4.1 Other Issues Raised by Submitters Not Covered Elsewhere in Report

TRAFFIC ISSUES

The submitter has expressed concerns with respect to traffic. Whilst it is recognised that local residents will always experience some level of inconvenience on any busy road, this would be the case on every road servicing a school throughout the city. Roads are public thoroughfares that are very difficult to regulate but it is expected that road users will (for the most part) 'drive to the conditions'.

All the aspects of particular concern, namely parking, vehicle access and traffic, have been assessed by a qualified traffic engineer (independent of the applicant's traffic engineer), who has concurred that "there are no traffic reasons why the proposed childcare centre should not be granted resource consent".

NOISE

There is no particular evidence to indicate that childcare centres generate excessive noise. There are numerous childcare centres located within residential settings throughout the City with little to no evidence of complaints about noise. The District Plan sets limits on allowable noise levels and activities are required to comply with these limits. There is therefore a mechanism already in place that would ensure that noise levels are maintained at suitable levels. The application has attempted to limit noise disturbance to adjoining residents by including a landscape buffer and outdoor play areas away from the boundary with residential properties. The centre will only be open weekdays between the hours of 7.30 am – 5.00 pm.

CRIME/VANDALISM

The centre will be purpose built for children mainly aged between 2 - 5 years and the children will be supervised by qualified staff in fenced play areas. No money will be left at the premises and there is no reason to believe that the centre will attract crime to the area. During hours of operation staff will provide passive surveillance of the boundary with adjoining residential properties. The outdoor play area will be located away from the boundary with adjoining residential properties. A small area of outdoor play area will be setback from the boundary with a residential property of approximately 12.0 metres; it is unlikely that children attending the centre will be able to throw things over the dividing 1.8 metre fence.

8.4.2 Bonds/Reserve Contributions/Development Levy/Financial Contributions

Development Contribution

The Local Government Act 2002 includes a provision for councils to use development contributions as a funding tool if they wish. This proposal is considered to be a development in terms of the Local Government Act 2002 and will therefore be subject to a development levy. These levies are identified by the Waitakere City Council's Long Term Council Community Plan 2003 (LTCCP) as capital expenditure and a calculation of the charge, based on the increase in units and impermeable surfaces, has been calculated as part of this application.

A Development Contribution of **\$7,823.79 (incl GST)** has been estimated, based on a gross floor area of 351m² and impermeable surfaces of approximately 740m². As agreed with Council, this sum shall be payable upon uplift of the building consent.

8.4.3 Monitoring

The performance of the activities under this consent will be subject to Council's standard monitoring procedures. These procedures include scheduled inspections to ascertain compliance with conditions of consent, together with periodic inspections as and when required to establish whether conditions are being complied with on an ongoing basis. In particular, attention is likely to be directed toward the implementation of conditions relating to silt and erosion controls, construction of the parking area and construction of acoustic fencing.

8.4.4 Any Other Relevant Non-Statutory Documents

There are no District Plan decision notices, Regional Growth Strategy matters, non-statutory documents such as reserve management plans and Council policy/strategy documents or heritage orders that apply to this site or the immediate surrounds.

The site is designated by the Minister of Education for the purposes of Glendene Primary School. The proposed childcare centre will be operated by a private organisation and does not fit within the purposes of this designation. The activity will therefore require consent under the Living Environment zoning for a non-residential activity.

8.5 Lapsing Of Consent

Under section 125 of the Resource Management Act 1991, unless it is given effect to, a consent lapses either on the date that is specified in the consent or if no date is specified, 5 years after the date of commencement of the consent.

A standard five year period in which to give effect to this consent is considered appropriate because such proposals are often dependent on obtaining 'start-up' funding and obtaining approvals from other bodies such as the Minister of Education and it would be reasonable to provide an appropriate time frame for this to occur. There are no other foreseeable circumstances within the next five years that would affect the implementation of this proposal.

9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

It is considered that the proposal would be consistent with Sections 5, 6, 7 and 8 of the Resource Management Act 1991.

The purpose and principles of the Resource Management Act 1991 have primacy over all other considerations that are set out in section 104 of the legislation. In summary, sections 5, 6 and 7 require that resources must be sustainably managed in such a way that any adverse effects on the environment can be avoided, remedied or mitigated. Furthermore, the Resource Management Act 1991 requires that amenity values and the quality of the environment are to be maintained and enhanced.

It is considered that the granting of this application would not be contrary to the purpose of the Act. The proposal will enable people and communities to provide for their economic, social and cultural well-being and their health and safety without significantly compromising the needs of future generations or the life supporting capacity of natural resources such as air, water and soils.

The proposal would allow for the establishment of a childcare centre with associated car parking that would be appropriate within the environment and would be able to establish and operate in such a way that the amenities of the neighbourhood would not be adversely affected. Through the imposition of appropriate conditions of consent, it is considered that the proposed activity can sufficiently avoid, remedy or mitigate any adverse effects on the environment.

10 EVALUATION IN ACCORDANCE WITH SECTION 104D OF THE RESOURCE MANAGEMENT ACT 1991

The threshold test in Section 104D of the Resource Management Act 1991 states that a consent authority must not grant consent to a non-complying activity unless it is satisfied that the adverse effects on the environment will be minor (104D(a)) or the activity will not be contrary to the objectives and policies of a plan or proposed plan (104D(b)).

It is considered that the threshold test for a non-complying activity has been met as the proposal satisfies section 104D, in that subject to appropriate conditions of consent requiring mitigation the adverse effects on the environment of the proposal will be no more than minor and the proposal is not contrary to the relevant objectives and policies of the District Plan. Jurisdiction to grant consent has therefore been established.

11.0 CONCLUSION

The applicant seeks consent to establish a childcare centre for up to 50 children as a non residential activity. The subject site is located at 60 Barrys Road, Glendene and is designated under the Minister of Education for Glendene Primary School. The site is within the Living Human Environment and the General Natural Area. Infringements generated by the proposal require consent for earthworks of 200m² over an area 7500m², provision of car parking and traffic generation associated with the establishment of a non residential activity that is not a home occupation. Consent is also required as the site may potentially be subject to contamination due to past horticultural use.

It is considered that the proposal meets the criteria for granting consent as the potential adverse environmental effects are no more than minor and can adequately be mitigated through the imposition of appropriate conditions of consent. It is considered that the establishment and operation of a childcare centre on the school site will not lead to a decline in the amenity values of the area in which it seeks to locate. It would meet the social needs of the neighbourhood whilst also providing a seamless transition to primary school for those children attending the facility.

The proposal is considered to be consistent with the objectives and policies of the District Plan which seek to achieve a quality of activity that would make a positive contribution to local amenity value and neighbourhood character by managing activities and associated car parking so that neighbourhood character, visual amenity and streetscape are maintained and privacy of adjoining property owners is assured.

It is considered that the issues raised by the submitters can be adequately addressed through the imposition of appropriate conditions or by compliance with performance standards of the District Plan.

Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application merits consent in accordance with Section 104 of the Resource Management Act 1991.

RECOMMENDATIONS

That pursuant to Sections 104,104B, 104D, 108 and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, **consent be granted** to the application by Las Construction Ltd to establish a childcare centre for up to 50 children as a non-residential activity with traffic generation and carparking and Driveway infringements, requiring earthworks of 200m³ over an area of 7500m² at 60 Barrys Road, being Pt Lot 3 DP 1931 for the following reasons:

1. Any adverse effects on the environment would be no more than minor because:
 - effects from earthworks would be of short duration and controlled by means of consent conditions;
 - effects from traffic would not compromise the safe operation of the road network;
 - design of carparking would allow for safe on-site manoeuvring and safe egress/ingress from the site;
 - site test conclude that contamination is within health safety guidelines;
 - noise would be controlled by means of acoustic fencing and would be required to meet District Plan standards.
2. The proposal satisfies the relevant assessment criteria and is consistent with the relevant objectives and policies of the Waitakere City Operative District Plan.
3. The proposal is not contrary to Part II of the Resource Management Act 1991

Consent shall be subject to the following conditions:

(GEN1)The development shall proceed in accordance with the plans titled Lasque Construction Limited, Glendene Primary School, 60 Barry's Road Glendene, pages 1&2 ref 6673 prepared by Lifestyle Architects and all referenced by Council as RMA 20070227 and the information, including further information, submitted with the application.

(GEN2) All infrastructure relating to stormwater treatment and disposal, wastewater disposal, and water supply shall be designed and completed to the satisfaction of Council's Drainage Assets Engineer. (Compliance with the Waitakere City Council Code of Practice for City Infrastructure and Land Development is deemed to be in accordance with the above condition).

(GEN3) Pursuant to section 125 of the Resource Management Act 1991, this consent shall lapse after a period of five years after the commencement of the consent.

A consent compliance monitoring fee of \$1,308.00 (inclusive of G.S.T.) has been paid to the Council. This fee is to recover the actual and reasonable costs incurred ensuring compliance with the conditions of this consent. If, on inspection all conditions have not been satisfactorily met, a reinspection shall be required at the relevant hourly rate applicable at the time the reinspection is carried out. The resource consent holder shall be advised of any further monitoring fees if they are required.

Earthworks

(EW1) **Before commencement of any works and until completion of exposed earth siteworks**, adequate sediment and erosion control measures shall be constructed and maintained by the consent holder. The control measures must be maintained until the site has been adequately stabilised against erosion. The construction and maintenance shall be in accordance with Appendix 3, Erosion and Sediment Control Measures Appendix to the Natural Area Rules of the Waitakere City Council District Plan (this will be attached as an appendix to the decision).

Please **advise Council's Environmental Monitoring Officer when the controls are in place and await the approval of the monitoring officer** before commencing work.

(EW2) The consent holder shall implement suitable measures, such as wheel wash facilities or the construction of a stabilised entrance way, to prevent the deposition of earth on the surrounding streets from trucks entering or leaving the site, to the satisfaction of the Manager Resource Consents. These measures shall remain in place until the completion of the development. Should any material be deposited on the street, it shall be removed immediately at the expense of the consent holder.

(EW3) Footpaths, berms and kerbs shall be protected from damage by crossing or parking vehicles to the satisfaction of the Manager Resource Consents. Any damage which is attributed to the earthworks operation shall be rectified at the cost of the consent holder.

(EW4) The development works are to be carried out in accordance with NZS 6803P:1984 'The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work' with the exception of the hours of work, which are to be limited as follows:

Monday to Friday: 7.30 am to 7.00 pm

Saturday 8.00 am to 5.30 pm

Sunday and Public Holidays: No work

(EW5) All necessary action shall be taken to prevent a dust nuisance to neighbouring properties to the satisfaction of the Manager Resource Consents.

(EW6) All topsoil shall be retained no site or disposed to a licensed facility, to the satisfaction of the Manager Resource Consents.

Acoustic

(AC1) Noise from the childcare centre shall not exceed the following levels as measured at or near any residential boundary

Monday to Saturday	7.00 am - 7.00 pm 50dBA L10
Monday to Saturday	7.00 pm - 10.00 pm 45dBA L10
Sundays and public holidays	7.00 am - 10.00 pm 45dBA L10
Monday to Sunday (inclusive)	10.00 pm - 7.00 am 40dBA L10 and 70dBA Lmax

Noise shall be measured and assessed in accordance with NZS6801:1991 and NZS6802:1991

(AC2) No service vehicles (including rubbish trucks) or delivery vehicles are permitted to visit the site between the following hours:

Monday to Sunday (inclusive) 10.00 pm - 7.00 am

(AC3) The childcare centre shall not operate outside of the following hours:

Monday - Friday 7.00 am - 7.00 pm

(AC4) A new wooden fence shall be constructed along the rear boundary and side boundary adjacent to the childcare centre and associated carpark. The palings of the fence shall be a minimum thickness of 25mm, the edges of the palings firmly abutting and with battens covering the joins. The fence shall be a minimum height of 1.8m.

Transport

(TA1) On completion of the car-park area hard-surfacing, the parking spaces are to be pavement marked, with signs erected where necessary, to clearly define staff and disability parking. All to comply with The Manual of Traffic Signs and Markings, (MOTSAM) published by Transit NZ. Also refer to NZS 4121 (2001), "Design for Access and Mobility - Buildings and Associated Facilities".

FEES, BONDS & CONTRIBUTIONS

1. A development contribution of **\$ 7,823.79 (incl GST)** has been estimated based on a gross floor area of 351m² and impermeable surfaces of approximately 740m². As agreed with Council, this sum shall be payable upon uplift of the building consent.

ECOWATER

1. Provide a private wastewater drainage system to the proposed Childcare Facility, with connection to the existing public system as specified below:
 - The proposed development is to connect to the public reticulated wastewater network as generally proposed in the EDC Infrastructure Report, Ref 7348, 01-02-07, Section 4 and associated proposed drainage plans e.g. D01. This is subject to accordance with the Building Code at Building Consent application
 - Construction of private drainage requires a building consent. Provide a copy of the private drainage As-Built plan for the property, prepared by a Registered Drainlayer, showing the new private drain from to the point of connection to the public drains and proposed chamber.

- New connections to the public system can only be carried out by Council's contractor. Apply for new connections at the Council, by completing the application form. Pay all costs associated with providing the new connections.
 - Provide a surveyed As-Built plan prepared by a Licensed Cadastral Surveyor, showing lid and invert levels in terms of LINZ datum, and two boundary offsets to each dry chamber.
2. Provide a private stormwater drainage system to the proposed Childcare Facility, with connection to the existing public system as specified below:
- The proposed development is to connect to the public reticulated wastewater network as generally proposed in the EDC Infrastructure Report, Ref 7348, 01-02-07, Section 3. and associated proposed drainage plans e.g. D01. This is subject to accordance with the Building Code at Building Consent application
 - Construction of private drainage requires a building consent. Provide a private drainage As-Built plan for the property, prepared by a Registered Drainlayer, showing the separate private drains from the new Unit to the point of connection to the public drains.
3. Provide a private water supply reticulation system to serve proposed Childcare Facility in compliance with Council's Code of Practice for City Infrastructure and Land Development. Specific requirements:
- The proposed new building is to connect to the public reticulated water supply network as generally proposed in the EDC Infrastructure Report, Ref 7348, 01-02-07, Section 5. and associated proposed drainage plans e.g. D01. The flow rates as noted for Class W4 have been confirmed by the Waitakere City Council Water Asset Engineer as the Council network exceeding this minimum flow. This is subject to accordance with the Building Code at Building Consent application.
 - The new building is to be individually metered at the road reserve boundary. Note that meters will be installed when a building consent is applied for.
 - Any existing water meter serving an existing building must remain the meter serving that building.

Advice Notes:

1. Where indicated in the conditions it is the consent holders responsibility to inform the Environmental Monitoring Officer when inspection is required. Inspections can be requested through the Call Centre on 839 0400.

Report prepared by: Mandy Sherring, Resource Planner

